

March 28, 2003

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION**

**SUBJECT:** Department of Development and Environmental Services File No. **L02P0011**

**HAMILTON PLACE**  
Preliminary Plat Application

**Location:** Between 158<sup>th</sup> Avenue Southeast and 160<sup>th</sup> Avenue Southeast, on the  
north side of Southeast 134<sup>th</sup> Street, if extended

**Applicant:** KBS III, LLC  
*represented by* **Wayne Potter**  
17423 Topaz Loop SE  
Yelm, WA 98057

**King County:** Department of Development and Environmental Services  
*represented by* **Kim Claussen, Bruce Whittaker, Kris Langley**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055-1219  
Telephone: (206) 296-7211  
Facsimile: (206) 296-6613

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions (modified)

**EXAMINER PROCEEDINGS:**

Hearing Opened:	March 18, 2003
Hearing Closed:	March 18, 2003

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**ISSUES/TOPICS ADDRESSED:**

- Transfer of density credit
- Traffic impacts and mitigation
- Surface water drainage
- Water supply

**SUMMARY:**

Application for subdivision of 4.32 acres into 23 lots in the urban area, including transfer of density credits, is granted preliminary approval.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:****1. General Information:**

Owner:	Mary Hamilton 15821 SE 132 <sup>nd</sup> Place Renton WA 98059
Applicant:	Robert Ruddell KBS III, LLC 12505 Bel-Red Road, #212 Bellevue, WA 98005 (206) 623-7000
Engineer:	BP Land Investments, LLC PO Box 5206 Kent, WA 98064-5206
STR:	14-23-4
Location:	Between 158 <sup>th</sup> Avenue Southeast and 160 <sup>th</sup> Avenue Southeast, on the north side of Southeast 134 <sup>th</sup> Street, if extended
Zoning:	R-4
Acreage:	4.32 acres
Number of Lots:	23 lots
Density:	Approximately 5.3 units per acre
Lot Size:	Ranges from approximately 4,556 to 6,338 square feet
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	City of Renton
Water Supply:	King County Water District #90

Fire District: King County District #25  
School District: Issaquah

Complete Application Date: July 2, 2002

2. Except as modified below, the facts set forth in the DDES preliminary report to the Hearing Examiner for the March 18, 2003, public hearing are found to be correct and are incorporated herein by this reference. The said report is exhibit no. 2 in the hearing record.
3. Students from this subdivision will be bussed to the elementary school, middle school and senior high school.
4. This proposal is governed by the 1994 King County Comprehensive Plan, as amended by the Comprehensive Plan 2000 amendments adopted by ordinance no. 14044. The base density of the R-4 zone classification is four dwelling units per acre, and the maximum density is six dwelling units per acre. Density in excess of the base density, up to the maximum density, is permitted utilizing the transfer of development rights (TDR) program pursuant to Chapter 21A.37 of the King County Code.
5. The subject property was issued a transportation certificate of concurrency for 22 single-family dwelling units. These units are in addition to the single dwelling unit that currently exists on the property. This certificate reflected capacity which was available in concurrency zone no. 452 on the date of application for the certificate of transportation concurrency, and it remains in effect for the duration of this development approval. KCC.14.70.250.D.
6. The conditions of the mitigated determination of environmental non-significance will mitigate the impact of the proposed subdivision on existing downstream flooding problems. These conditions may be met by the developer of Hamilton Place alone, or in conjunction with the development of other properties in the vicinity which would have similar downstream impacts.
7. Testimony by area residents indicates that water pressure problems occasionally exist in the area of the proposed development. However, there is no evidence as to whether the cause of those problems is inadequate supply, deficiencies in the distribution system or in individual feeder lines. King County Water District no. 90 has issued a certificate of water availability for the proposed development, in which it certifies that 1,000 gallons per minute or more will be available for not less than two hours at the site. The District also certifies that it has water rights or claims sufficient to provide this service.

#### CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes,

parks and recreation, playgrounds, school and school grounds, and safe walking conditions for students who only walk to school, and it will serve the public use and interest.

3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval, or as shown on the proposed preliminary plat submitted by the Applicant, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of this development.
5. This proposal meets the requirements for the transfer of development rights, resulting in the authorization of six dwelling units on the subject property in addition to the base density permitted by the R-4 zone classification. The resulting total density of 5.3 dwelling units is within the maximum density permitted by the R-4 zone classification.
6. The proposed development is subject to completion of one of the alternative surface water controls set forth in the mitigated determination of non-significance for this proposal.

#### DECISION:

The proposed preliminary plat of Hamilton Place, as revised and received October 31, 2002, is approved, subject to the following conditions for final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the maximum density (and minimum density) requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The Applicant shall provide Transfer of Density Credit documentation to DDES prior to final approval.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.

7. A surface water adjustment (L02V0098) is approved for this subdivision. All conditions of approval for this adjustment shall be met upon submittal of the engineering plans.
8. The 100-year floodplain for any onsite wetlands or streams shall be shown on the engineering plans and the final recorded plat per the 1998 King County Surface Water Design Manual (KCSWDM).
9. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):
  - a. Road A shall be improved to the urban sub-access street standard.
  - b. FRONTAGES: The frontages along both 158<sup>th</sup> Ave SE and along 160<sup>th</sup> Ave SE shall be improved to the urban neighborhood collector standard.
  - c. Tract D shall be improved to the private access tract standard per Section 2.09 of the KCRS. Tract C shall be improved as a joint use driveway.
  - d. Modifications to the above road conditions may be considered according to the variance procedures in Section 1.08 of the KCRS.
  - e. Lots utilizing Tract D shall have undivided ownership of Tract D and be responsible for its maintenance. Lots 22-23 shall have undivided ownership of Tract C and be responsible for its maintenance. A note to this effect shall be placed on the engineering plans and final plat.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
13. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in KCC 21A.24. Permanent survey marking and signs, as specified in KCC 21A.24.160, shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers

(e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.

14. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the Applicant.

#### Wetlands

- a. Class 3 wetland(s) shall have a minimum buffer of 25 feet, measured from the wetland edge.
- b. The wetland(s) and their respective buffers shall be placed in a Sensitive Area Tract (SAT).
- c. Buffer averaging may be proposed, pursuant to KCC 21A.24.320, provided the total amount of the buffer area is not reduced and better resource protection is achieved, subject to review and approval by a DDES Senior E-Ecologist.
- d. A minimum building setback line of 15 feet shall be required from the edge of the tract.

#### Alterations to Streams or Wetlands

- a. If alterations of streams and/or wetlands are approved in conformance with KCC 21A.24, then a detailed plan to mitigate for impacts from that alteration will be required to be reviewed and approved along with the plat engineering plans. A performance bond or other financial guarantee will be required at the time of plan approval, to guarantee that the mitigation measures are installed according to the plan. Once the mitigation work is completed to a DDES Senior Ecologist's satisfaction, the performance bond may be replaced by a maintenance bond for the remainder of the five-year monitoring period to guarantee the success of the mitigation. The Applicant shall be responsible for the installation, maintenance and monitoring of any approved mitigation. The mitigation plan must be installed prior to final inspection of the plat.
15. The following note shall be shown on the final engineering plan and recorded plat:

#### RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and

Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

16. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
  - a. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.), shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents. Applicant shall provide a minimum of 9,500 square feet as shown on the preliminary plat map.
  - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
17. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
18. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
  - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
  - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
  - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.

- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The Applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The Applicant shall contact Metro Service Planning at 684-1622 to determine if 158<sup>th</sup> Ave. SE and/or 160<sup>th</sup> Ave. SE is on a bus route. If either road is a bus route, the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

19. The following have been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The Applicants shall demonstrate compliance with these items prior to final approval.

The base flow control for the stormwater detention system is Level 2 per the 1998 King County Surface Water Design Manual(KCSWDM). To mitigate for existing downstream flooding problems, one of the following options is required:

- a. The stormwater detention system shall be designed to the Level 3 Flow Control criteria as specified in the 1998 KCSWDM.

**OR**

- b. The stormwater detention system shall be designed to the Level 2 Flow Control criteria and the following downstream improvements shall be accomplished either individually or in conjunction with other development projects in the area:

The 160th Ave. SE downstream conveyance system (from SE 136<sup>th</sup> ST to approximately SE 142<sup>nd</sup> St.) shall be upgraded to provide for the 100-year storm capacity. Downstream driveway culverts/ditches and a cross-culvert under 160<sup>th</sup> Ave. SE shall be improved as needed. Culverts L-8 and L-10 on the west side of 160<sup>th</sup> Ave. SE, cross-culvert L-11, and culverts L-12 and L-14 on the east side of 160<sup>th</sup> Ave. SE shall be improved. The culvert designations are according to the Level 1 Downstream Drainage Analysis prepared by Daniel Balmelli, PE dated May 26, 2002 and revised Dec 3, 2002. Bank and channel



stabilization are also required in the unopened right-of-way for 162<sup>nd</sup> Ave. SE, in the vicinity of the easterly line of Lot 12, Rich Lea Crest (address 16046 SE 142<sup>nd</sup> St.). It is estimated that stabilizing and re-grading approximately 50 to 100 feet east of 16046 SE 142<sup>nd</sup> St., will be adequate to resolve flooding that has occurred at this location. The culverts and channel described are located from the south site boundary to a distance of approximately 2000 feet to 3200 feet downstream. Note that the above ditch and culvert improvements are intended to duplicate the downstream improvements required for the east sub-basin of the proposed plat of Evendell L01P0016.

20. The applicant shall provide additional analysis, to be reviewed and approved by DDES, to assure that downstream improvements, in conjunction with additional runoff volume from the site as developed, will not exacerbate drainage and flooding problems between the termination of the required downstream culvert and ditch improvements and SE 144<sup>th</sup> Street.

ORDERED this 28<sup>th</sup> day of March, 2003.

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James N. O'Connor  
King County Hearing Examiner pro tem

TRANSMITTED this 28<sup>th</sup> day of March, 2003, to the parties and interested persons of record:

Michael Rae Cooke  
Claudia & Michael Donnelly  
Mary Hamilton  
Randy Horner  
Fred & Helga Jaques  
Walter Kapioski  
Florence Nott  
Bob Ruddell  
Sandra Snyder  
Jeff & Julie Taylor  
Greg Borba  
Kim Claussen  
Carol Rogers  
Larry West

Seattle-KC Health Department  
Steve Fiksdal  
Edward & Nancy Hilton  
BP Land Investments  
Bill & Cathy Johnson  
BP Land Investment, LLC  
Wayne Potter  
Mary Sackett  
Centre Point Surveying  
Gregg Zimmerman  
Laura Casey  
Kristen Langley  
Steve Townsend  
Bruce Whittaker

#### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before April 11, 2003***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before April 18, 2003***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County

Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

#### MINUTES OF THE MARCH 18, 2003 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L02P0011

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Bruce Whittaker and Kristen Langley, representing the Department; Wayne Potter and Dan Balmelli, representing the Applicant; and Helga Jaques, and Michael Rae Cooke.

The following exhibits were offered and entered into the record:

Exhibit No. 1	DDES file no. L02P0011
Exhibit No. 2	DDES preliminary report dated March 18, 2003
Exhibit No. 3	Application dated July 2, 2002 (Complete) submitted May 30, 2002
Exhibit No. 4	Environmental checklist dated May 30, 2002
Exhibit No. 5	Mitigated determination of non-significance issued January 31, 2003
Exhibit No. 6	Affidavit of posting showing posting date of July 15, 2002 and DDES receipt on July 18, 2002
Exhibit No. 7	Plat map received October 31, 2002 (revision)
Exhibit No. 8	Land use map 811E received Oct. 3, 1977
Exhibit No. 9	King County Assessor's map for NE 14-23-05, revised 2-22-2000
Exhibit No. 10	Preliminary wetland assessment and delineation report by Chad Armour dated April 30, 2002
Exhibit No. 11	Level 1 downstream drainage analysis by D. Balmelli dated May 26, 2002
Exhibit No. 12	Supplemental level 1 downstream drainage analysis dated October 24, 2002
Exhibit No. 13	Conceptual storm and utility plan dated 05-19-02 with attached adjacent lot ownership map dated 05-19-02 and preliminary recreational park plan dated 10-23-02
Exhibit No. 14	Letter dated January 9, 2003, re. KCSWDM adjustment request, file no L02V0098
Exhibit No. 15a	Letter dated November 19, 2002, from Claudia Donnelly
Exhibit No. 15b	Letter dated March 9, 2003, from Claudia Donnelly
Exhibit No. 15c	Email dated March 17, 2003, from Michael/Claudia Donnelly
Exhibit No. 16a	Letter dated August 6, 2002, from the City of Renton
Exhibit No. 16b	Letter dated February 21, 2003, from the City of Renton
Exhibit No. 17	Density credit transfer agreement received Oct. 28, 2002, with attached transfer of development rights (cert. no. 36)
Exhibit No. 18	Email dated November 19, 2003, from Curtis Schuster (Issaquah School District)
Exhibit No. 19	Letter to James O'Connor dated 3/8/02 from Michael Rae Cooke

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